

86th Legislative Session – 2011

Committee: Joint Appropriations

Monday, January 31, 2011

P - Present
E - Excused
A - Absent

Roll Call

P Sutton
P Haverly
P Heineman
P Novstrup (Al)
P Peters
P Putnam
P Rampelberg
P Dennert
P Wismer
P Juhnke
P Bolin
P Romkema
P Dryden
P White
P Tidemann
P Carson
P Brown, Vice-Chair
P Wink, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Chairman Dean Wink.

Department of Agriculture

Secretary Walt Bones met with the Appropriations Committee to discuss the department's FY12 budget request. Also in attendance were Jon Farris, Deputy Secretary, Chris Petersen, Finance Officer, Kevin Fridley, Director of Ag Services, Joe Lowe, Director of Wildland Fire Suppression, Jerome Hertel, State Fair Manager, Ray Sowers, Director of Resource Conservation and Forestry, Larry Stearns, Brand Board and Dr. Dustin Oedekoven, State Veterinarian. The

director positions for the Divisions of Ag Policy and Ag Development are vacant at this time. Documents No. 1, 2 and 3 were distributed.

Secretary Bones told the Committee that agriculture is the state's No. 1 industry and has a \$20.7 billion economic impact each year. Representative Wink requested an update on the South Dakota Certified Program. Secretary Bones said the program involves cattle that are raised, grown and processed in South Dakota. Currently South Dakota is missing the processing part of this program, which is critical. However, the department is looking forward to a proposed packing plant in Aberdeen. The enrollment process is simple and involves a \$100 participant fee and a \$5/head fee for electronic ID tags. The department contracts with a private firm to perform the verifications. Senator Brown asked what percentage of the budget is covered by the \$100 producer fee. Mr. Farris said initially the program was designed so that in time, with enough cattle, the fees would cover the cost of the program. However, at the present time approximately 50% of the cost is covered by fees with the remaining amount covered by internal funds.

Secretary Bones briefed the Committee on the work of the Wildland Fire Suppression Division. In addition to work done in South Dakota, the fire suppression units have served in 9 different states. Mr. Lowe said the division's assets are also made available nationally when not in use in South Dakota. The department recovers its cost at a rate of 110% with the money going back to the Fire Suppression Fund which in turn is funded with General fund dollars. In response to Representative Wink's question, Mr. Lowe said when his crews are not engaged in fighting fires they are working in the Black Hills on fuel mitigation (including the pine beetle issue), as well as providing training to fire fighters. Senator Brown asked if South Dakota has trouble recovering costs considering the budget problems in other states. Mr. Lowe said the department operates under interagency agreements to recover the costs; and while it may take time to collect; none are delinquent. Mr. Lowe told the Committee the department uses the King Air aircraft as their command center in the sky when fighting fires in the Black Hills. Last year the department recovered \$64,000 for the use of that aircraft. Senator Rampelberg asked if the state reimburses the National Guard for assistance in fighting fires. Mr. Lowe said yes, the air power side of the National Guard is an integral part of the fire fighting efforts.

Secretary Bones gave the Committee an update on the State Fair. The 2010 State Fair involved 13,000 4-H exhibits, 1,400 vendors and exhibitions and show cased the largest carnival in South Dakota. Since 2006 the attendance numbers have grown from 135,000 to 180,000 and the taxes paid by vendors grew from \$56,000 to \$113,000. In 2010 carnival revenue was up 9.5%, grandstand ticket sales were up 13% and sales tax revenue was up 7.5%

Secretary Bones told the Committee the department receives 0.5% in General funds, amounting to 14% of its budget. The remaining budget is 68% in other funds 18% in federal funds. The FY12 General fund budget request is 10.8% less than the FY11 request. In addition, the department's General fund budget request is at the 2002 budget level.

Secretary's Office:

A \$109,865 decrease is recommended including reductions of (\$108,154 in general funds, \$362 in federal expenditure authority, and \$1,349 in other fund authority). The FY2012 budget adjustments include:

- A general fund reduction of \$87,766 in personal services.
- A general fund reduction of \$20,388 in operating expenses.

The reduction in personal services will align the budget with anticipated general fund expenditures in FY2012. The reduction in operating expenses reflects costs savings due to anticipated lower internal services billings.

Senator Peters commented that the FY12 budget request for personal services was significantly higher than actual FY09 and FY10. Mr. Petersen said the Secretary's Office had experienced turnover in FY09 and FY10. The FY12 request for \$566,228 in General funds is basically a zero based budget by individual position, including those that are vacant. Senator Peters asked for an explanation of the FY12 request being higher than the actual expenditures in FY10 considering the salary freeze in state government and which FTEs were added. Mr. Petersen said one position involved the Budget Director who serves two agencies. In 2010 that position was shifted into the budget line with a corresponding decrease in the Department of Game, Fish & Parks. The \$65,987 in other funds is grant money from Economic Development and proceeds from the Certified Beef Program. Senator Haverly asked for a clarification on the FTE and shift of dollars between the Department of Agriculture and Game, Fish & Parks. Mr. Petersen said it is a senior accountant position.

Division of Ag Services – Dairy Inspection Program:

A general fund decrease of \$84,313 is recommended in the department's dairy inspection program. Dairy program fee increases approved during the 2009 legislative session allowed the dairy program to shift from a funding split of (30% fees / 70% general funds) to (50% fees / 50% general funds). No additional fee increases are proposed. Current fee rates are generating revenue at a level high enough to support a funding split of (60% fees / 40% general funds). This adjustment will reduce the program's reliance on general funds.

Senator Peters asked about the sustainability of the funds. Mr. Farris said the fee collection is based on the number of dairies, cows and the amount of milk produced in the state. As long as the state can maintain production, the fees should be adequate; losing a dairy would cause the numbers to change.

Division of Ag Services – Prairie Dog Control Program:

A reduction of \$125,000 in general funds is recommended for the prairie control program. The prairie dog control program combines funding from the Department of Agriculture and the Department of Game, Fish & Parks to treat prairie dog infestations on private lands. This decrease will reduce the Department of Agriculture's prairie dog control program budget from

\$150,000 to \$25,000. Currently no other funding sources within the Department of Agriculture can be used for prairie dog control efforts. The Departments of Agriculture and Game, Fish & Parks will continue to work collaboratively to identify and secure funding levels required to support on-going prairie dog control efforts.

In response to Representative Wink's question, Mr. Petersen said the budget request is based on past requests for assistance. During the drought years the department paid contractors up to \$350,000. With the wet weather, that level was reduced and the two departments feel this amount will provide adequate service. Senator Tidemann asked if the department still provides the bait, Mr. Farris said yes. The prairie dog problem primarily comes from federal land; however, state is restricted from going on federal land to bait the prairie dogs. The federal government is trying to preserve prairie dogs to serve as food for the black footed ferret. Senator Sutton asked how the proposed bill to eliminate the prairie dog hunting season would impact the departments work. Mr. Farris said prairie dog hunting season is closed during the time a prairie dog has its pups and the department needs to continue to do the right thing at the right time for the right reason.

Senator Heineman asked if the Department of Game, Fish & Parks had cut funding for this program. Mr. Petersen said no, funds for this activity in the Department of Game, Fish & Parks are in the Wildlife Division which has no General funds.

Senator Tidemann asked if there were restrictions on who can apply the bait. Mr. Farris said yes, it is restricted activity. Regulations require the bait be applied by a certified private applicator or a commercial applicator.

Division of Ag Services – Nursery Inspection Program:

A general fund reduction of \$12,000 is recommended in the department's nursery inspection program. Nursery program fee increases approved during the 2009 legislative session allowed the nursery program to generate approximately \$36,000 in additional revenue on a bi-annual basis. During the 2009 legislative session \$12,000 of General funds were appropriated to the nursery program to offset fee increases that were not approved. With no General funds supporting the program, fee increases are anticipated in FY13. Senator Haverly asked for the source of "other" funds. Mr. Farris said the other funds come from fee dollars paid by the nursery industry. This \$12,000 reduction eliminates all General funds and the program will now be fully supported by user fees.

Division of Fire Suppression & Division of Resource Conservation & Forestry – Federal Stimulus Funding:

A federal expenditure authority reduction \$3,421,000 is recommended to eliminate American Recovery & Reinvestment Act (ARRA) expenditure authority that was budgeted in previous fiscal years.

Division of Fire Suppression – Single Engine Air Tanker (SEAT):

A reduction of \$97,685 in General funds is recommended. This decrease will eliminate funding in the division's budget for the upfront SEAT contract guaranteeing air support when needed. Securing air support resources will become more challenging. Air resources become scarce during periods of high fire activity, at the national level. There are only 42 Single Engine Air Tankers available throughout the nation. Budgeted funding in the division provided for the availability of one single engine air tanker for approximately 45 days. Mr. Farris said the department is changing the budget process and will come in after the expenses are incurred to backfill expenses. Mr. Petersen explained that the fire suppression revolving fund does not receive an upfront appropriation and basically starts at zero. The department incurs expenses and then will come back to the Legislature requesting a special appropriation to backfill the fund. Senator Peters asked if the contracted equipment reimbursement goes back to the General fund or to the fire suppression fund. Mr. Petersen said it goes back to the Fire fund but becomes a special appropriation which is paid by the General fund. In response to Senator Peters request for fund history, Mr. Petersen will provide a Condition Statement for the fund. Representative Dennert asked how South Dakota reimburses other states that assist fire suppression. Mr. Petersen said the department uses the fire suppression fund to immediately reimburse those agencies.

The \$97,685 is the total amount of General funds. Mr. Lowe said in the past the department had contracts, both state and national, for SEATs. The department has now eliminated the state contract and will rely solely on federal contracts. Senator Tidemann asked what South Dakota's risk would be by eliminating South Dakota's SEAT. Mr. Lowe said the department will keep watch over the national numbers and will request an emergency seat if they see the need. Representative Carson asked what other states charge South Dakota for assisting with fire suppression. Mr. Lowe said the rates are agreed upon nationally. Senator Haverly asked what this elimination means to South Dakota. Mr. Lowe said it means the aircraft will not be sitting on the tarmac; the closest asset to South Dakota would be a contractor in Montana. However, Congress has ratified the Great Plains Interstate Fire Compact, which means South Dakota can request aerial resources from other partner states in the compact. When those resources are exhausted South Dakota can go to a contiguous compact and one of those is Saskatchewan. If requested, that asset could be here in 2 hours. Senator Haverly asked if General funds pay for this, would it be considered a backfill now if we needed it. Mr. Petersen said yes. In response to Senator Heineman, Mr. Lowe said the \$97,685 was for the contract and for the time the aircraft sat on the tarmac.

Representative Romkema asked for an explanation of the dramatic changes in fund balances for Fund 3059. Mr. Petersen said it relates to the unpredictability of fighting fires.

The Division of Agriculture Development:

A reduction of \$50,000 in General funds is recommended within Agriculture Development. The General fund reduction will be offset by increased use of other funds from the Governor's Office of Economic Development (GOED) and the department's certified enrolled cattle program.

Mr. Farris said the department had hoped to generate enough fees to sustain the certified enrolled cattle program; however with the low number of cattle being processed, that hasn't happened. The plant coming on line in Aberdeen will hopefully change this. Representative Wink asked for an update on the Aberdeen facility. Mr. Farris said the investors are in the financing stage and hope to announce operation plans this spring or summer. The superstructure is up but it is lacking the infrastructure. Senator Peters asked about the flip in funds between General funds and the Redi-Fund. Mr. Petersen said the expenditure authority is in place. Representative White asked about the Economic Development funds committed to this project. Mr. Farris said he believes the funds would not be utilized until the operation was up and running.

Senator Tidemann said the requirement to have the meat processed in South Dakota seems to be a hindrance to the program, and perhaps having the processing done out-of-state could help the program. Mr. Farris said the decision to require the to be meat processed in South Dakota was philosophical to help South Dakota economically. Representative White said in order for the meat to be certified it can not be co-mingled with another product.

Representative Dennert asked for information on the decreasing numbers in the certified beef program. Mr. Farris said the program is actually two programs, certified enrolled cattle and South Dakota certified beef. The program was designed that way to help fill the pipeline with available cattle. The South Dakota certified enrolled cattle are a similar source in age program than those cattle that are sold outside South Dakota into a source and age program. There is a reduction in producers that are participating in South Dakota's program but are utilizing other source and age programs. The numbers have stayed around 100 producers. The key component is beef quality assurance (BQA) training that the producer has to go through before the calves are born. By working with the South Dakota Extension Service and the Cattlemen's Association, there are between 2,000-3,000 producers who have had BQA training. If the producer has gone through the training, they can participate in the program.

Mr. Farris told the Committee the funding for the Aberdeen plant has been primarily foreign direct investment through the EB5 program. The foreign direct investment has come primarily from Southeast Asia. The Korean investors have told the department they want to see this certified beef in their marketplace. Mr. Farris said the department has no contracts in place at this time but it's hard to get a contract without a processing plant.

Senator Peters asked for information on the increase in other funds in this program. Mr. Petersen said the main source of revenue in other funds is the rural rehabilitation fund along with any other certified beef revenue. Senator Peters asked if any of the \$3.6 million in outstanding loans were in default. Mr. Farris said no. Senator Haverly asked if the swap of other funds for General funds was done to show a reduction or are they being done for efficiency purposes. Mr. Farris said while the department reduces General funds every year, and does their best to run the department and get the work done in the most economical way possible, a number of the

reductions were done to meet the Governor's mandate. Mr. Farris said they hope those reductions will be sustainable.

The Division of Resource Conservation & Forestry – Conservation Grant Funding:

A decrease of \$432,820 in other fund expenditure authority is recommended because the portion pesticide registration fees dedicated for conservation funding ended on June 30, 2010. No more pesticide fees will be set aside for this purpose.

State Fair:

A general fund decrease of \$31,793 is recommended for the State Fair. As in the past the South Dakota State Fair will defer or postpone capital improvement projects to address our budget deficiency. Growth in State Fair activity, participation, and revenues has allowed the annual operations of the State Fair Park to become less dependent on general funds and more self sufficient. The State Fair will continue to be challenged to address the maintenance and repair needs of the state owned buildings and facilities. This decrease will reduce the State Fair's general fund appropriation from \$300,000 to \$268,207.

Representative Carson asked if the department had made any progress on the long-term maintenance and repair needs at the State Fair grounds. Mr. Farris said yes; the department had received a grant from the federal government and the statewide M&R program that helped with some projects. In the past year the department had done about \$1 million worth of projects and yet has many more to do. The department has prioritized projects to get the most necessary done.

Mr. Petersen reminded the Committee that information on the department's Boards and Commissions was included in the budget information provided by LRC. Senator Peters asked for clarification on the reduction of 2 FTEs in the Brand Board. Mr. Stearns said 2 FTEs (investigators) were transferred to the Attorney General's Office per Executive Order; however, the Brand Board will still pay their salaries and related expenses. The spending authority will be with the Attorney General's Office and the Brand Board will make reimbursement. Mr. Stearns said the \$36,000 in question does not correlate with the 2 FTEs. The number of livestock inspections is estimated, and in the past, due to a good livestock market, the department had done between 60,000-100,000 more livestock inspections. The \$36,000 reduction is in anticipation of a lower number of inspections.

Representative Wink asked about salaries for inspectors. Mr. Stearns told the Committee the full-time inspectors have not received an increase; however, the department paid out more on part-time inspectors. Because the local inspectors are paid by the number of cattle inspected, they received more pay as a whole. The Brand Board has 13 fulltime inspectors based at livestock markets that receive an annual salary and benefits while part-time inspectors receive a day wage based on the number of livestock inspected. The department only inspects west river livestock.

Representative Carson asked if an attorney position had also been transferred to the Attorney General's Office. Mr. Stearns said no, only inspectors. Senator Brown commented that the Attorney General's office budget showed 4.0 FTEs including an attorney. Mr. Stearns said that the attorney that attends the Brand Board meetings and provides legal advice to the Board is an employee of the Attorney General's Office. The Brand Board has periodically provided reimbursement for travel expenses. Mr. Stearns agreed to provide a breakdown of expenses paid to the Attorney General's office. Senator Peters asked for clarification on the issue between the Attorney General's office and the Brand Board. Josh Larson, with the Bureau of Finance & Management told the Committee there is an increase of 2 FTEs and \$160,000 in expenditure authority in the Attorney General's budget. The Brand Board pays the investigators now and that amount was moved to contractual services.

Representative Dennert asked for information on the reduction in the meat inspection program. Dr. Oedekoven said the primary function of the Animal Industry Board is for animal health protection. Initially the proposal was to eliminate the meat inspection program but currently it is being reduced and involves the reduction of 4 FTEs. The Board will do its best to continue to run the program with the remaining 20 inspectors statewide. In addition to their meat inspection duties, the inspectors also work in the disease control program and are cross-trained in a number of animal industry activities. In response to Representative Juhnke's question, Dr. Oedekoven said two of the positions are currently vacant; the other two will be terminations.

Department of Public Safety

Mr. Trevor Jones, Secretary of the Department of Public Safety, introduced the staff present at the meeting – **Ms. Cindy Jungman**, Director of Administrative Services; **Ms. Kristi Turman**, Director of Emergency Services; **Ms. Cindy Gerber**, Director of Driver's Licensing Program; **Major Randy Hartley**, Assistant Superintendent of the Highway Patrol; and **Mr. Terry Wooster**, Public Information Officer.

The Department of Public Safety (DPS) was formed in 2003 as a result of an executive order from Governor Rounds. In this reorganization of state government, ten programs were brought together to form the DPS. The agencies included: accident records, driver licensing, emergency management, emergency medical services, highway patrol, highway safety, homeland security, state fire marshal, state inspection program, and weights and measures. An overview of the department was distributed (**Document #4**).

Secretary Jones stated that the DPS requested and received presidential disaster declarations to help with the recovery of the ice storm last winter. This was one of seven presidential declarations throughout 2010. He advised the committee that the conditions appear right for spring flooding to occur in 2011, especially in the northeastern part of the state and around the James River Valley.

Highway safety is one of the highest priorities for the DPS. Current seatbelt use in the state is at its highest level (74.5%). Alcohol related highway fatalities are down over a five year period.

The 2009 Legislature passed legislation complying with the federal requirement for issuing state identifications. Although the new requirements caused frustration, 156,000 card holders who applied in the last year received the new federally compliant card. The new requirement allows a person to use their driver's license for boarding aircraft and entering federal buildings.

Senator Brown asked about the federal deadlines for the identification. Ms. Cindy Gerber stated that the federal regulations came out with an original December 31, 2009 deadline. The federal government decided to extend the deadline to the full compliance deadline (May 2011). This coming May is the deadline and DPS does not know about any further extensions.

In response to Representative Tidemann's questions, Ms. Gerber stated that 13 states and the District of Columbia have reached compliance. There are 12 states that have committed to be in compliance by the end of 2011. Currently, Minnesota and Nebraska are not in compliance.

Representative Juhnke asked about the driver's exam stations that were closed. Ms. Gerber stated that the DPS was better able to utilize the staff in providing the services without additional FTEs. DPS has not received complaints about the closing for some time.

Representative Juhnke asked about the possibility of renewing driver's licenses online. Ms. Gerber stated that a person will not be able to renew online until they have received their first federal compliance card. However, legislation will need to be passed allowing for this change. Currently, DPS won't be through the first cycle of issuing the federal compliance identification cards for another four years.

The DPL's FY2012 budget overview was distributed to the committee (**Document #5**).

For FY2012, the governor recommends a budget of \$51,592,973, comprised of \$3,290,257 in general funds, \$21,812,044 in federal fund expenditure authority, and \$26,490,672 in other fund expenditure authority, and 408.0 FTEs. This is a total decrease of \$477,364 - \$378,799 (10.3%) in general funds, \$25,308 (0.1%) in federal funds, and \$73,257 (0.3%) in other funds, and a decrease of 3.5 FTEs.

Administration. The department recommends a budget cut of \$10,000 in general funds for the department's secretary's salary reduction. The DPS also requests a reduction of \$2,397 due to changes in the Bureau of Information and Telecommunication and space billing rates.

Division of Highway Patrol. For FY2012, DPS recommends a general fund decrease of \$148,596 and 3.0 FTEs for the State Radio dispatch operations. This is primarily due to the elimination of three vacant radio communication specialist positions and the dispatch operations will be

consolidated during the nighttime hours, when traffic is slower. The DPS also requests a reduction of \$51,326 due to changes in the Bureau of Information and Telecommunication and space billing rates.

Senator Peters asked about the cut to personal services. Ms. Cindy Jungman responded that there is no funding swap. The 2010 Legislature passed legislation allowing for a fee to be implemented. The legislation allocated \$1 from every motor vehicle registration and \$5 for every driver's license renewal to be dedicated to the highway patrol. At that time, the general funds for the highway patrol were eliminated and the funding switched to other funds.

Emergency Services. The Governor is recommending a decrease in general fund expenditure authority of \$117,281 for personal services and operating expenses in the Emergency Medical Services and Fire Marshal program. The DPS recommends a reduction of 0.5 FTE for the division and the duties will be absorbed by pooling secretary resources. The DPS will utilize federal funding sources to perform EMT training. The Fire Marshal's office will shift \$10,000 in personal services costs to the administration of the new Fire Safe Cigarette Fund. The division has federal and other fund reduction totaling \$8,630 caused by changes in central billing rates.

In response to Representative Bolin's question, Ms. Cindy Jungman stated that the Homeland Security budget for FY2012 is \$11,879,000; of which 100% is federal fund expenditure authority.

Representative Juhnke asked about the balance and fluctuation of the State Highway Trust Fund. Ms. Jungman responded that the current highway patrol budget request is \$18,390,649 in other fund expenditure authority. Of that, \$1,990,000 is from the Motor Vehicle Fund and the remainder is from the State Highway Trust Fund.

Senator Putnam asked about the affect the gas tax on the state radio budget. Ms. Jungman stated that the state radio budget is completely other funds. There is a general bill transfer that fund some of the costs for state radio from the State Highway Trust Fund. Any reduction in state radio budget would reduce the transfer from the State Highway Trust Fund.

Senator Peters asked about the transfer from the Motor Vehicle Fund to the State Highway Trust Fund. Ms. Jungman said that prior to this year, the average transfer from the State Highway Trust Fund to the local government Highway and Bridge Fund was \$660,000 annually. The transfer in August 2010 was \$1,640,000 due to the increase in driver's license fees in the fund since the increase on July 1, 2009. The fund was able to increase more than normal from July 2009 (when the first increased fees went into effect) through January 1, 2010 (when the cost of the new driver's license contract went into effect).

Representative Dennert asked if the fee covers more than just the cost of administration. Ms. Jungman stated that the DPS built in projected inflation into the fee increase so the department

would not need to come back in another year or two asking for another fee increase. There will be some additional revenue in the fund, but as inflation increases and the DPS gives pay raises, the fund will deplete.

Senator Tidemann asked about the consolidation of duties from the reduction of 3.0 FTEs for the state radio. Major Hartley responded that two of the positions were in Huron and one was in Pierre, but all 3 FTE positions were vacant. There are three location in South Dakota that have radio operations – Huron, Pierre, and Rapid City. During the early morning hours, the radio traffic is less than average, so the work will be spread out to the reaming operators. It does not matter where the FTEs are located because the system allows for the entire state to operate on the same radio system.

Inspections and Licensing. For FY2012, the Governor is recommending a \$102,507 reduction in general funds in the Weights & Measures program. This reduction occurs mainly in two areas:

- \$74,837 for contractual services – DPS will reduce the number of weights and measure inspection hours (primarily in the area of retail scales, pumps, and meters) due to efficiencies that will allow for more inspections to be performed in less time.
- \$25,000 in capital outlay – DPS believes it is able to perform the duties for the next several years without additional capital outlay spending to the state metrology lab.

In response to Representative Wink's question, Major Hartley stated that the regulation and oversight for semi trucks is within the Motor Carrier Servicer under the Division of the Highway Patrol. The DPS will provide to the committee the number of units the department currently has in the state.

Senator Putnam asked about the DPS informing farmers and truck drivers about the rules and restrictions for operating semi trucks. Major Hartley responded that education is the main method to protect the roads. The DPS may redo the weight and proper truck loading video and have it available to the public. The department is also considering attending fairs to get the information out to citizens. Currently, there are posting on the website and a handbook that is distributed with the promotional video.

Senator Heineman asked about any increase in FTEs for the highway patrol. Major Hartley stated that the highway patrol has had 162 troopers since the 1970's. The fluctuation in FTE numbers is the time delay to fill vacancies.

MOTION: ADJOURN

Moved by: Haverly
Second by: Tidemann
Action: Prevailed by voice vote.

Barb Bjorneberg and Lisa Shafer
Committee Secretary

Dean Wink, Chair